

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

United States of America,  
Plaintiff/Respondent  
v.  
Darnell Maurice Smith,  
Defendant/Petitioner

2:14-cr-00012-JAD-NJK-1

**Order Lifting Stay and Denying  
Motion to Vacate Sentence  
under 28 U.S.C. § 2255**

[ECF Nos. 33, 34]

Petitioner moves for habeas relief under 28 U.S.C. § 2255(a), arguing that the enhancement of his sentence under U.S. Sentencing Guidelines Manual §§ 4B1.2 and 2K2.1 violated his due-process right because the provision's residual clause is void for vagueness.<sup>1</sup> I stayed this petition in anticipation of the United States Supreme Court's decision in *Beckles v. United States*.<sup>2</sup> The *Beckles* decision, issued today, squarely defeats petitioner's claim: the High Court held that "the advisory Sentencing Guidelines are not subject to a vagueness challenge under the Due Process Clause."<sup>3</sup>

In light of *Beckles*, the **STAY IS LIFTED**, and petitioner's motion to vacate his sentence under 28 U.S.C. § 2255 [ECF Nos. 33, 34] is **DENIED**.

Dated March 6, 2017

  
Jennifer A. Dorsey  
United States District Judge

<sup>1</sup> ECF Nos. 33, 34.

<sup>2</sup> ECF No. 35.

<sup>3</sup> *Beckles v. United States*, Case No. 15-8544, 580 U.S. \_\_\_, slip op. at 10 (Mar. 6, 2017).